IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.516 OF 2005

IN

SUMMARY SUIT NO.3179 OF 2003

Sushil K. Jain. ... Plaintiff.

vs.

Kamlesh Motiram Bathija and another. .... Defendants.

Mr.Ramesh Jain, for Plaintiff.

Ms.Kavita Lalwani, for Defendants in support.

CORAM: D.K.DESHMUKH,J.

DATED: 17th March,, 2006

P.C.:-

By consent of parties, the notice of motion is disposed of in the following terms:-

1. The ex-parte decree passed on 18.1.2005 in Suit no.3179 of 2003 is set aside. The Suit no.3179 of 2003 and Summons for judgment no.30 of 2004 are restored to file subject to the following conditions:-

(i) Within a period of Twelve weeks from today, the defendants shall deposit in this Court, with due intimation to the plaintiff, amount of Rs.90,000/- (Rupees Ninety thousand only).

(ii) Within a period of one week from depositing the amount, the defendants may file their reply in the summons for judgment. On defendants filing their reply , the summons for judgment be placed before the appropriate Court for hearing and decision.

(iii) In case the amount is not so deposited within the aforesaid period, this notice of motion shall be treated as dismissed.

(iv) In case the amount is deposited as per this order, the Prothonotary and Senior Master of this Court shall permit the plaintiff to withdraw the amount on furnishing undertaking to this Court undertaking to re-deposit the amount, if so directed by this Court and on such terms and conditions as may be directed by this Court. The withdrawal of the amount is permitted within a period of two weeks from deposit of that amount.

(v) If the amount so deposited is not withdrawn within the aforesaid period, the Prothonotary and Senior Master of this Court is directed to invest the said amount in fixed deposit in a nationalised bank during the pendency of the suit.

The notice of motion is disposed of.